

MATTHEW D. POWERS (Bar No. 104795)

matthew.powers@weil.com

EDWARD R. REINES (Bar No. 135960)

edward.reines@weil.com

JEFFREY G. HOMRIG (Bar No. 215890)

jeffrey.homrig@weil.com

JILL J. HO (Bar No. 236349)

jill.ho@weil.com

WEIL, GOTSHAL & MANGES LLP

Silicon Valley Office

201 Redwood Shores Parkway

Redwood Shores, CA 94065

Telephone: (650) 802-3000

Facsimile: (650) 802-3100

Attorneys for Plaintiff-Counterclaim Defendant

NETAPP, INC.,

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NETWORK APPLIANCE, INC.

Plaintiff-Counterclaim Defendant,

v.

SUN MICROSYSTEMS, INC.

Defendant-Counterclaim Plaintiff.

Case No. C-07-06053 EDL

**DECLARATION OF JEFFREY G.
HOMRIG IN SUPPORT OF
NETAPP'S OPPOSITION TO SUN'S
EX PARTE APPLICATION TO
SHORTEN TIME**

1 I, Jeffrey G. Homrig, declare:

2 1. I am a member of the Bar of this Court and an associate at the law firm of
3 Weil, Gotshal & Manges LLP, counsel of record for Plaintiff NetApp, Inc., in this case. I submit
4 this declaration pursuant to Civil Local Rule 6-3(c). If called upon as a witness, I could
5 competently testify to the truth of each statement herein.

6 2. Sun's proposed schedule would cut NetApp's time to file a response nearly
7 in half – from 14 days to 9 days – while maintaining the standard 7 days for Sun to reply to
8 NetApp's opposition. *See* Motion to Shorten Time, at 3.

9 3. The '292 and '211 patents identify the same four individuals as inventors,
10 and NetApp asserts both the '292 and '211 patents against Sun's ZFS filesystem and products
11 containing ZFS. As a result, discovery related to the '211 patent overlaps with discovery related
12 to the '211 patent.

13 4. As noted above, Sun's proposed schedule would cut NetApp's time to file
14 a response substantially, and would also reduce the Court's opportunity to review the papers from
15 14 days to 6 days. But Sun would retain the full 7-day period in which to reply to NetApp's
16 opposition. Sun sought unsuccessfully a similar schedule in its *Ex Parte* Application to Shorten
17 Time for Hearing On Motion for Partial Stay. *See* Docket Entry 35, at 3.

18 I declare under penalty of perjury under the laws of the United States of America
19 that the foregoing is true and correct.

20 Dated: September 11, 2008

/s/ Jeffrey G. Homrig

Jeffrey G. Homrig